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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/451,319 11/30/99 MOORE

R SU-7073-D

HM12/0604

MR PHILIP M PIPPENGER  
PATENT AND TRADEMARK DIVISION  
ALBEMARLE CORPORATION  
451 FLORIDA STREET  
BATON ROUGE LA 70801-1765

EXAMINER

PRYOR, A

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

06/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/451,319

Applicant(s)

Moore, Jr. et al

Examiner

Alton Pryor

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1616



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3-5
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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**Detailed Action**

***Claim Rejection under 35 U.S.C. 103(a)***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodenough et al (US 3,558,503; 1/26/71) and Hamilton (US 4846,979; 7/11/89) or Henry et al (WO 9743392; 11/20/97). The reference teaches a process of producing a formulation which comprises mixing together up to 100,000 ppm bromine, sulfamic acid and an alkali metal (Na,K,Li) hydroxide at basic pH. The instant Br/N ratio is also taught by the reference. See entire reference. The reference does not teach a) combining of an alkali metal salt of sulfamic acid with bromine and b) the process comprising NaBr. However, an ordinary artisan would know that the combination of an alkali metal hydroxide with sulfamic acid would yield the instant alkali metal salt of sulfamic acid.

Hamilton or Henry teaches a process for bleaching or disinfecting water comprising a very alkaline composition comprising NaBr. See entire references. One having ordinary skill in the art would have been expected to add the NaBr taught by Hamilton or Henry to process taught by Goodenough. One would have been motivated to do this because all three individual alkaline compositions are taught to function as disinfectants or bleaching agents.

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### ***Double Patenting Rejections***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CAR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CAR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CAR 3.73(b).

Claims 61-65 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 32-35 of U.S. Patent Nos. 6,068,861 and 6,110,387. With respect to U.S. Patent no. '861 - Although the conflicting claims are not identical, they are not patentably distinct from each other because the composition in USPN '861 are used in the process claims of US application no. '319. With respect to U.S. Patent no. '387 - Examiner acknowledges applicants attempt to submit a terminal disclaimer in U.S. Application no. '319.

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However, an account no. was not provided to charge fee. A fee is required because a terminal disclaimer was never entered into this application. Claims 61-65 of U.S. Application no. '319 and Claims 1-14 of U.S. Patent no. '387 claim similar processes.

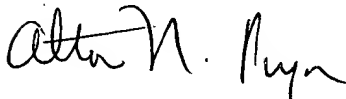
1. Claims 61-65 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-61 of copending Application No. 09/732,601. Both applications claims similar processes. This is a provisional obviousness-type double patenting rejection.

#### *Telephonic Inquiries*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



ANP

4/20/01